IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 30474 of 2007(C)

PETITIONER:

T.O.BHASKAR, DEVI NIVAS,
M.PUDUR, P.O.GOVINDAPURAM,
PALAKKAD DISTRICT.

BY ADV. SRI.P.K.SURESH KUMAR

RESPONDENTS:
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1. THE SUPERINTENDENT OF POLICE,
PALAKKAD.

2. THE CIRCLE INSPECTOR OF POLICE,
KOLLENGODE, PALAKKAD DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
KOLLENGODE, PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SRI. P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.30474 of 2007-C

Judgment

Balakrishnan Nair, J.

The petitioner submits, he is the Manager of MGLP School, M.Pudur in Palakkad. He submits, he is a public spirited citizen. When one Mr.Abbas, along with his bullock cart loaded with ground nuts was detained by the sales tax officials, the petitioner intervened in the same as there was nothing illegal about the transport of nuts. While so, the second respondent CI of Police came to the check post. He caught hold of the petitioner, kicked him and also bet him using his cane. Though he fell down as a result of the manhandling, he was not allowed to go to hospital. Instead, he was taken to the police station and was detained there for four hours. Three days later also, when he happened to pass through the road in front of the police station, the third respondent shouted, abused him and threatened to put him behind the bars. Now, he is being regularly summoned to the Kollengode police station and is detained there for hours together without any reason.

2. The petitioner submits, he is not aware of any crime committed by him or registered against him for being subjected to such a treatment by the police. He suspects, rival politicians are influencing the police to harass him. Therefore, this Writ Petition is filed, seeking a direction to respondents 2 and 3 who are the CI of Police and SI of Police respectively of Kollengode police station, not to interfere with the life and liberty of the petitioner.

3. The 2nd respondent has filed a statement, denying all the allegations of the petitioner. M.Pudur in Muthalamada village is a place adjacent to the State border. For the last few years, the petitioner is engaged in the business of illicit transport of taxable essential commodities like dal, ground nuts and other groceries through bye-routes passing through the estates owned by private individuals and other bye-routes, by-passing the sales tax check post. On 28.04.2004, the Police seized two tempo vans, carrying 58 bags of tax evaded ground nuts. Those goods belonged to the petitioner. The vehicle and the goods were seized and produced before the Sales Tax Intelligence Squad, which imposed a fine of Rs.40,000/- on him. Earlier, the SI of Police had seized one of the aforesaid vans, containing 58 bags of dal, weighing 80 kgs each and produced before the Commercial Tax Inspector. A fine of Rs.12,000/-

was imposed. According to the police, the said contraband goods also belonged to the petitioner. The Police are taking effective steps to stop the illegal transportation of taxable goods. The petitioner is a wealthy and powerful man. He is using his muscle power and political influence to threaten and subdue the local people in the border area so that he can smoothly carry on his illegal business with the help of his gangmen. In order to prevent the illegal transportation of contraband goods, the police have formed "Jana Jagratha Samithis" in the border areas like M.Pudur, Valiya Challa, Moochamkundu etc., under the jurisdiction of the Kollengode police station for community policing and to help and assist the public. The said samithis are very active in collection of intelligence and prevention of illegal transportation of taxable goods. On getting information from the members of the said samithis, the CI and SI of Police, seized five bullock carts, carrying 83 kgs of ground nuts each. It was found that those goods belonged to one Mr.Abbas. To save the said Mr.Abbas, the petitioner and his friend one Mr.Sulaiman tried to create law and order problems in the area by obstructing the vehicles and trying to close the shops in the precincts of Govindapuram sales tax check post in protest against the above said police action. The SI of Police therefore, directed the petitioner to

refrain from such activities. Since the petitioner did not obey, Crime No.268/07 under S.151 Cr.PC was registered against and the above said Mr.Sulaiman. Later, further action in the matter was dropped. According to the police, the petitioner has approached this Court, suppressing the material facts. There is no harassment from the part of the Police against him. The 2nd respondent has also produced Ext.R2(a) complaint filed by the local people against the petitioner and his gang. According to the local people, they are threatening and harassing the local people, who are opposing the smuggling of taxable goods. The Police point out that in fact, the local people require protection from the criminal activities of the petitioner.

4. Heard the learned counsel on both sides. Though, the petitioner has not filed any reply affidavit, the learned counsel for the petitioner denies the allegations against him. Having regard to the allegations against the petitioner, we feel that the actions from the part of the Police cannot be described as any harassment. We are of the view that they are discharging their duty to the public by enforcing the law against the persons engaged in illegal transportation of taxable goods. We record the submission of the Police that they are not harassing any one. In view of the dispute on facts, we decline to

exercise the jurisdiction under Article 226 of the Constitution of India which the petitioner has tried to invoke. But, this will not affect the rights of the petitioner to move the competent civil/criminal court to vindicate his rights, if they are infringed by the Police. Subject to that observation, the Writ Petition is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

06.11.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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